

**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
**SAN JOSE DIVISION**

XIAMEN ZHAOZHAO TRADING CO.,  
LTD.,

Plaintiff,

v.

NINGBO JIANGBEI SHANGYU  
TRADING CO., LTD.,

Defendant.

Case No. 22-cv-04944-BLF

**ORDER ADOPTING REPORT AND  
RECOMMENDATION; GRANTING  
MOTION FOR DEFAULT JUDGMENT**

[Re: ECF No. 28]

The Court has reviewed the Report and Recommendation (“R&R”) of Magistrate Judge Alex G. Tse, ECF No. 28, recommending that the Court grant Plaintiff Xiamen Zhaozhao Trading Co.’s (“Zhaozhao”) Motion for Default Judgment, ECF No. 22, against Defendant Ningbo Jiangbei Shangyu Trading Co. (“Ningbo”). The R&R was served on Defendant by mail on July 1, 2024. ECF 25. Defendant thereafter had fourteen days to object to the R&R. *See* Fed. R. Civ. P. 72(b)(2). Defendant did not file an objection within the time provided and still has not filed an objection.

The Court finds the R&R to be correct, well-reasoned and thorough. In particular, the Court agrees with Judge Tse’s conclusions that jurisdiction is proper, service of process on Defendant was adequate, and default judgment is warranted after weighing the factors set forth in *Eitel v. McCool*, 782 F.2d 1470 (9th Cir. 1986). *See* R&R at 3–6.

Concerning damages, the Court notes that Zhaozhao did not identify a specific dollar amount in the complaint; Zhaozhao requested damages in an amount “to be determined by a jury” to “adequately compensate . . . for [Ningbo’s] patent infringement.” ECF No. 1 (“Compl.”), Prayer for Relief ¶ D.

Rule 54(c) provides that a “default judgment must not . . . exceed in amount . . . what is demanded in the pleadings.” Fed. R. Civ. P. 54(c). “The purpose of this rule is to ensure that a defendant is put on notice of the damages being sought against it so that he may make a calculated decision as to whether or not it is in his best interest to answer.” *Alameda Cnty. Elec. Indus. Serv. Corp. v. Banister Elec., Inc.*, No. C 11-04126 LB, 2012 WL 3042696, at \*1 (N.D. Cal. July 25, 2012) (citing *In re Ferrell*, 539 F.3d 1186, 1192–93 (9th Cir. 2008)).

“The Ninth Circuit has held that Rule 54(c) does not limit default judgments to the specific dollar amount stated in the complaint when the prayer seeks damages to be proved at trial.” *Twitch Interactive, Inc. v. Johnston*, No. 16-CV-03404-BLF, 2019 WL 3387977, at \*9 (N.D. Cal. July 26, 2019) (citing *Henry v. Sneiders*, 490 F.2d 315, 317 (9th Cir. 1974)); accord *Davis v. Koz*, No. 18-CV-06597-VAP-JPRx, 2021 WL 2669568, at \*9 (C.D. Cal. June 2, 2021); *Brantley v. Boyd*, No. C 07-6139 MMC (NMC), 2013 WL 3766911, at \*7 n.1 (N.D. Cal. July 16, 2013); *Trustees of S. California IBEW-NECA Pension Plan v. Gonzalez Elec., Inc.*, No. 07-CV-01044 MMM (SHx), 2008 WL 11336220, at \*3 n.20 (C.D. Cal. Sept. 30, 2008). “General allegations of damages in a prayer for relief are sufficient to support a default judgment under Rule 54(c), as long as the defendant is given reasonable notice thereby of the potential amount at stake.” *Anunciation v. W. Capital Fin. Servs. Corp.*, 97 F.3d 1458, 1996 WL 534049, at \*3 (9th Cir. 1996).

Here, the complaint put Ningbo on notice that Zhaozhao would seek to recover damages at trial to compensate for Ningbo’s patent infringement. On default judgment, Zhaozhao identified the exact amount of damages sought: \$8,243 in the form of a reasonable royalty, an accepted measure of patent infringement damages. *See* 35 U.S.C. § 284. Zhaozhao mailed a copy of its motion for default judgment to Ningbo. *See* ECF No. 24. The motion, in conjunction with the complaint, gave Ningbo “ample notice of the amount of damages at issue in this case.” *J & J Sport Prods., Inc. v. Salas*, No. 13-CV-05553-BLF, 2015 WL 3429153, at \*3 (N.D. Cal. May 27, 2015). Zhaozhao complied with Rule 54(c), and the damages requested—a small amount—should not come as a surprise to Ningbo.

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United States District Court  
Northern District of California

1 Accordingly, IT IS HEREBY ORDERED that:

2 1. The R&R is ADOPTED IN FULL; and

3 2. Plaintiff's motion for default judgment is GRANTED.

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5 Dated: July 16, 2024

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7 BETH LABSON FREEMAN  
8 United States District Judge  
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